

DSB 2005 MASTER FILE BROCHURE

In addition to the individual application form separately filed for each specific project, architects, engineers, planners, construction managers, and related construction industry consultants who wish to be considered for appointment as program consultants, designers, or construction managers on state projects under the jurisdiction of the Designer Selection Board must submit current (within one year of application) credentials in the form of a master brochure as specified on the new DSB 2005 Master File Brochure, (attached herein), or an existing Master File Brochure (if it was submitted within the past year). Applicants may supplement the required material with their printed brochure, including pictures and illustrations and any other information which the applicant deems essential to be representative of his or her capabilities. Please utilize return receipt if an acknowledgment is desired. All material shall become the property of the Commonwealth, may be disposed of without notification, and shall be considered public information.

Please note that copies of the new form are available from the DSB at DSB Headquarters, Room 1004, One Ashburton Place, Boston, MA 02108. Electronic copies of the forms are available through the Commonwealth's web site at http://www.state.ma.us/cam/forms/fi_dselectboard.html and by email request to Thomas.Kinney@state.ma.us

CHAPTER 579

In accordance with Chapter 579 of the Acts of 1980 all contracts for designer services for all capital facility projects entered into on or after January 1, 1982 shall conform to those provisions specified in this act. Some of the major changes mandated by this legislation include the following:

1. Lump sum design fees may be set by the Commissioner prior to DSB selections process, or negotiated after the DSB selection process. (See M.G.L. C.7, §38G). If designer's fee is negotiated, he must file a truth-in-negotiations certificate. (Revised to M.G.L. C.7, §38G per Chapter 189 of 1984).
2. There can be no change in consultants from those named on the DSB application unless approved by the Commissioner and reported to the DSB. The director may require a Consultant employed by the designer to obtain and maintain liability insurance.

Section 38G

- (a) In the selection of a designer when the fee for design services has been set by the commissioner prior to the selection process, the commissioner shall appoint a designer from among the list transmitted to him or her under section thirty-eight F. If the commissioner appoints any designer other than the one ranked first by the board, he or she shall file a written justification of the appointment with the board.
- (b) When the fee for design services is to be negotiated, the commissioner shall review the list transmitted by the board, and may exclude any designer from the list if a written explanation of the exclusion is filed with the board. The commissioner shall then appoint a designer based on successful fee negotiation. The commissioner or persons designated by him or her shall first negotiate with the first ranked designer remaining on the list. Should the commissioner be unable to negotiate a satisfactory fee with the first ranked designer within thirty days, negotiations shall be terminated and negotiations undertaken with the remaining designers, one at a time, in the order in which they were ranked by the board, until an agreement is reached. In no event may a fee be negotiated which is higher than a maximum fee set by the commissioner prior to selection of finalists. Should the commissioner be unable to negotiate a satisfactory fee with any designer initially selected as a finalist by the board, the board shall recommend additional finalists in accordance with the provisions of this chapter. The commissioner may require a finalists with whom a fee is being negotiated to submit a fee proposal and include with it such information as the commissioner requires to provide current cost and pricing data on the basis of which the designer's fee proposal may be evaluated.
- (c) All fees shall be stated in designer's contracts and in any subsequent amendment thereto as a total dollar amount. Contracts may provide for equitable adjustments in the event of changes in scope or services.

ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS TO THE DSB

1. Submission of Master File Brochure Data or the DSB 2005 Master File Brochure in the format required, and at least annually, continuously update same. Note that the Master File Brochure currently on file with the DSB can be utilized in place of the new DSB 2005 Master File Brochure until such time as the current Master File Brochure is in need of renewal.
2. Updating of the DSB 2005 Master File Brochure when there are significant principal or key personnel changes in a firm.
3. Receipt of applications from designers who are full time employees of another firm shall disqualify the applicant.
4. Receipt of applications from designers, and his/her consultants, who do not maintain a continuous on-going business shall disqualify the applicant.
5. Simultaneous receipt of applications from individuals or group of individuals who are associates or who are involved in an association or corporation filing for the same project shall disqualify the applicants.
6. Applicants agree to execute the standard contract for Designer Services DCAM Form C-2 or the standard contract for Studies, Programs, Master Plans & Reports, DCAM Form C-3.
7. Chapter 7, Section 38H(e) (iv) requires that on public design contracts where the total design fee is expected to exceed \$10,000 or for the design of a project for which the estimated construction cost is expected to exceed \$100,000 the designer shall:
 - a) File its latest CPA or PA audited financial statement with the Division of Capital Asset Management and Maintenance (DCAM), and continue to do so annually throughout the term of the contract;
 - b) Submit a statement from a CPA or PA that states that they have examined management's internal auditing controls, and expresses their opinion regarding those controls.
8. Every application or statement filed pursuant to this section shall be sworn to under penalties of perjury. A designer, programmer or construction manager who has been determined by the Board to have filed materially false information under this section shall be disqualified by the Board from further consideration for any project for such time as the Board determines is appropriate. **UNSIGNED APPLICATIONS WILL NOT BE CONSIDERED BY THE BOARD.**

ADDITIONAL REQUIREMENTS FOR DESIGNERS PROVIDING PLANS & SPECIFICATIONS

(a) Certification that the applicants' legal entity, if applying to perform design services other than preparation of studies, surveys, soil testing, cost estimates, programs, or construction management is a designer as defined. The definition of a design professional as listed in M.G.L. C.7, §38A½ follows:

"Designer," an individual, corporation, partnership, sole proprietorship, joint stock company, joint venture, or other entity engaged in the practice of architecture, landscape architecture, or engineering, which satisfies the following:

- (i) if an individual, the individual is a registered architect, landscape architect, or engineer; (registered in the Commonwealth of Mass.)*
- (ii) if a partnership, a majority of all the partners are persons who are registered architects, landscape architects, or engineers; (registered in the Commonwealth of Mass.)*
- (iii) if a corporation, sole proprietorship, joint stock company or other entity, the majority of directors or a majority of the stock ownership and the chief executive officer are persons who are registered architects, landscape architects or engineers, and the person to be in charge of the project is registered in the discipline required for the project.*

[Note: This requires that the chief executive officer and a majority of the directors or a majority of the stock ownership be registered architects, landscape architects or engineers, and that the person to be in charge of the

project be registered in the discipline required for the project. “Registered” means registered in the Commonwealth of Massachusetts.]

(iv) if a joint venture, each joint venturer satisfies the requirements of this section.

(b) As a condition of application, each applicant agrees to carry, if selected for the new project, (other than a master plan, study, program, or construction management) professional liability insurance in the amount equal to 10% of the estimated construction cost of the project, in conformance with the provisions of Article 18 of the standard design contract, i.e. minimum coverage of \$250,000 and maximum coverage of \$1,000,000.

CRITERIA FOR SELECTION OF SEMI-FINALISTS AND FINALISTS

IN CONFORMANCE WITH CHAPTER 7, SECTION 38F

1. Prior similar experience best illustrating current qualifications for this project.
2. Identity and qualifications of the key persons and consultants who will work on this project.
3. Depth of the firm with respect to size and complexity of the project.
4. Past performance on public and private projects.
 - a. Quality, clarity, completeness and accuracy of contract documents and design contract.
 - b. Effectiveness of meeting established program requirements and function within allotted budget.
 - c. Accuracy of cost estimates including assessment of contractors’ requisitions for payment and change order proposals.
 - d. Management ability to meet schedules including submission of design and contract documents and processing of shop drawings, contractors’ requisitions and change orders.
 - e. Coordination and management of consultants.
 - f. Working relationship with contractors, subcontractors, Division of Capital Asset Management and Maintenance (DCAM) staff and agency representatives.
5. Financial stability - including prompt payment of consultant fees.
6. Current workload with DCAM and other public agencies.
7. Geographical location of the firm with respect to the proposed project.
8. Participation of MBEs and WBEs as prime consultants or subconsultants in a role consistent with the participation goals set forth for the project.
 - a. The Designer Selection Board adheres to Executive Order #390 as implemented by the Division of Capital Asset Management and Maintenance establishing goals for minority business enterprise (MBE) and women business enterprise (WBE) participation on all design contracts unless otherwise noted. (See attached pages 6-10)
 - b. The Minority Business Enterprise and Woman Business Enterprise participation goals established for each contract are set forth on the first page of the “Designer Selection Board Project Criteria” solicitation for that contract.